

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

JANICE HARGROVE WARREN

PLAINTIFF

v.

Case No. 4:19-cv-00655-BSM

KEMP, et al.

DEFENDANTS

**PLAINTIFF'S MOTION TO STRIKE DEFENDANTS' EVIDENCE ON "TAINTED
ASSOCIATION" AND REQUEST FOR A CURATIVE INSTRUCTION TO THE JURY
OR MOTION FOR A MISTRIAL**

Plaintiff, Dr. Janice Warren, by and through her attorneys, Sarah Howard Jenkins, PLLC, and Porter Law, to request this Court to strike defendants' testimony or to instruct the jury on defendants' evidence on "tainted association" and says:

1. No earlier than Thursday evening, February 17, 2022, defendants began testifying on a "tainted association" defense or legitimate business reason ("defense") for not hiring Dr. Janice Warren through the members of the PCSSD Board of Education.

2. The culmination of this "tainted association" defense was Board Member Alicia Gillen's testimony that Dr. Janice Warren was offered the position of Interim Superintendent, without intending to give Dr. Warren fair consideration for the position of Superintendent because of her association with the Staffing negotiations.

3. None of the defendants' pleadings, in this case, included a "tainted association" defense. The defendants did not allege this defense or purported legitimate business reason in their Answer or their Motion for Summary Judgment.

4. The time for amending their Answer lapsed on May 26, 2020.

5. Having failed to assert the defense or purported legitimate business reason, the defense is waived. Any testimony or documents introduced to establish this defense must be stricken, and the jury instructed to disregard the evidence, or this Court must declare a mistrial.

6. Plaintiff provides her brief in support of this motion and a draft Curative Instruction.

7. Plaintiff requests expedited consideration of her motion and a limited response period for defendants' response, no later than noon, Monday, February 21, 2022. Local Rule 7.2 (b). Plaintiff anticipates closing her case in chief on Tuesday, February 22, 2022.

WHEREFORE, Dr. Janice Warrens asks this Honorable Court to: 1) strike defendants' testimony and evidence on "tainted association" and 2) instruct the jury to disregard defendants' evidence on negotiations of the Staffing stipulation when considering the issues in this case, or 3) declare a mistrial.

Respectfully submitted this 19th day of February 2022,
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